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California Air Resources Board
1001 I Street
Sacramento, California 95814

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RE: Comments on the Proposed Regulation for a 33% Renewable Electricity Standard

Dear Chairwoman Nichols and Board Members,

The Center for Energy Efficiency and Renewable Technologies (CEERT) appreciates the opportunity to comment on the California Air Resources Board (CARB) proposed regulation for a Renewable Electricity Standard. CEERT supports the 33% by 2020 mandate and hopes that it will send a clear message to the market, triggering new investments in the development of renewable energy in California and throughout the West. We look forward to working with the state energy agencies on the implementation of a 33% renewable energy policy.

Inconsistent Policies Regarding the Use of Renewable Energy Credits

Interagency coordination is especially necessary in an environment where so many relevant agencies are responsible for planning and regulation of various components of the energy market. While CEERT appreciates the amount of cooperation that has already taken place in the development of the 33% RES, we are disappointed in the level of coordination between the agencies on the issues of Tradable Renewable Energy Credits (TREC)s and out-of-state electricity deliveries, and feel that CARB's proposed regulation exacerbates the prevailing confusion surrounding these issues.

Given the multiple venues for discussion of these topics, a significant amount of confusion and market uncertainty exists for California's energy stakeholders. Uniformity and certainty within the rules applicable to the procurement of renewable energy are paramount for a robust renewable energy industry in California. Improved communication and coordination between the California Energy Commission (CEC), California Public Utilities Commission (CPUC), California Independent Systems Operator (CAISO), and CARB is obviously necessary to achieve that outcome.

For the existing 20% by 2010 RPS, the recent modification of D. 10-03-021 (released by the CPUC on August 23, 2010) limits the market for REC's to 40% of each utility's annual procurement target and retains the changes to the definitions of "bundled" and



"REC-only" transactions proposed in the original decision, even though those definitions are established by the CEC in its Renewables Portfolio Standard Eligibility Guidebook (RPS Guidebook). The RPS Guidebook is currently under revision at the CEC, however revisions are not aimed at changing the out-of-state delivery rules or attempting to address recent legislative discussions, the CPUC's Proposed Decision Authorizing TRECs, or CARB's proposed treatment of RECs in its 33% RES.

With that in mind, CEERT strongly recommends that the CPUC, CEC, CAISO, and CARB immediately address and resolve the apparent conflicts between the CPUC's recent modifications to D. 10-03-021, the CEC's RPS eligibility Rules, and CARB's proposed regulation for a 33% RES in a public forum, such as an en banc, prior to adoption of any new and potentially conflicting policy on this topic.

This proposed regulation suggests allowing an unlimited amount of RECs to count for RES compliance and considers renewable energy resources that meet all requirements of California's RPS program, *excluding electricity delivery requirements* to be eligible for RPS credit. Essentially, what stakeholders are left with is a significant change in policy between implementation of the existing 20% by 2010 RPS and initiation of the 33% by 2020 RES. CEERT's position is that a policy allowing 100% unbundled RECs fails to acknowledge the benefits of the development of renewable energy facilities *in California*, such as reduced criteria pollutant emissions, job creation and growth, reduced fossil fuel price volatility, and energy diversity and independence. Nor does this policy recognize the benefits of bundled transactions of RECs and electricity from out-of-state facilities, which can displace in-state fossil generation and provide a balanced electricity portfolio.

RECs as Property Rights

One additional issue regarding RECs, is CARB's suggestion in Section 97002(a)(16) that a "REC does not constitute a property or a property right". This statement does not accurately reflect what RECs have been designed to do since their inception, the expectations that have evolved regarding what is embodied in RECs, the present status of various markets for RECs, or their current treatment by other State and Federal agencies. CEERT suggests that an effective solution would be to amend the language to read "*The RES compliance value of a REC does not constitute a property or a property right.*" This would focus the definition only on rights created under AB 32, address regulatory takings concerns, align RES REC treatment with other state and federal agencies, and prevent market and contractual uncertainty that could result in not recognizing existing property rights in RECs.

In conclusion, CEERT supports the progress toward a statewide mandate for 33% renewable energy but hopes to participate in a multi-agency discussion and resolution of the conflicting policies regarding TRECs and out-of-state deliveries prior to any final adoption of this regulation. Thank you for your hard work in moving California toward a



33% renewable energy policy, and for the opportunity to offer our opinions and suggestions regarding the proposed regulation.

Sincerely,

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